

Rhode Island Housing and Conservation Trust Fund Commission

Community Land Trust Presentation

September 27, 2004

Rhode Island Foundation

Meeting Minutes

Attendees: Annette Bourne, Sheila Brush, Brenda Clemente, Rupert Friday, Joe Garlicke, Jennifer Holske, Paul Martellino, Ray Neirinckx, Lisa Primiano, Erin Reedy, Steve Ostiguy, Scott Wolf

SW: Minutes from last meeting will be available by next meeting
Housing Sub Committee has met twice-JG, chair

JG: Housing sub-committee has had two meetings.

1. Lisa Primiano discussed DEM land conservation programs and Rupert Friday discussed conservation land trusts
2. Erin Reedy of RI Housing & Mortgage Finance Corp gave a presentation

BC: Nationwide, Community Land Trusts (CLT's) follow two models in order to keep housing affordable:

1. Community Land Trust Model: at least 1/3 of CLT boards must be community members.
2. CDC Model-CHUDO (certified housing development organizations)

BC: RI is creating a coalition of these CLT's and CHUDO's that will provide accountability to local levels. There are representatives from every region in state.

SO: This Coalition has non-profit status and bylaws. It presently has no political designation.

BC: Purpose of this Coalition is

1. to standardize forms and process of creating affordable housing for CLT's
2. to act as the CLT if no CLT or CDC is available in the area

SO: Coalition will need to budget for attorney and at least 1 full time employee

BC: Coalition will announce its first project in October

SO: Presentation on Church Community Housing Corporation

Email jholske@tnc.org to request copies of presenter's handouts

CCHC has adopted the LT model: CCHC purchases land, sells improvements (already existing or that CCHC builds) and enters into a 99-year ground lease with the homeowner for an annual payment of approx. \$25

-This model avoids foreclosure and keeps home ownership affordable to a one-wage family by selling the home for its replacement value. CCHC contributes value of the underlying land.

CCHC has provided short-term assistance 5-6 times to homeowner for mortgage/tax payments in order to avoid foreclosure

When homeowner sells the improvements they must be sold for the lesser of the two values listed below:

1. Appraised value of improvements
2. Amount that another low/mod. income family making 75% of the median income could afford.

LP: Can the improvements and lease be passed down through generations?

SO: Purpose of this program is to structure low-income/moderate housing like that of standard home ownership so during the lease's 99-year term, it may be assigned to an heir and the house can be passed on even if the heirs are not classified as low income.

AB: Do the homeowners get credit for capital improvements on the resale value?

SO: CCHC has revolving loan fund for fixes/minor improvements although it advises against costly improvements. CCHC advises people not to use this program if they are looking to make an investment. CCHC recommends that developers build modest houses, ie: 3 bedrooms, 1100-1200 ft²

SO: Most CLT's follow a model where the low/mod. income person finds the house and the CLT gives them a grant. This model results in a lack of correlation between value of land and grant. The grant dollars are not stretched or used to ensure future maintenance of the program.

SO: Under CCHC's program, the landowner is responsible for property taxes and assessments- neither town or CCHC subsidize taxes

SO: The Ground Lease contains financing restrictions. CCHC needs to approve the financing request to ensure that the homeowner is not using the value of the land as equity.

Monitoring is very important. CCHC needs trained staff to identify these loans made against their property and to ensure these loans to not violate the terms of the lease.

SO: Towns can provide density bonuses to encourage developers to include low income housing in their developments (10%) The developer gets extra lots for free but eats the cost of what he could sell it for on open market if not low income.

The developer needs to be made whole: House and property appraised separately. Those totals are subtracted from the sale price to CCHC. The difference between the FMV and sale price is considered to be the developer's donation and is tax deductible.

CCHC needs to monitor and know what they are buying b/c developers may try to cut corners since they know they are losing money.

Towns are giving away \$\$ if they simply rezone instead of offering affordable housing bonuses. Tiverton has already proposed a density development for up to 30% bonus

PM: (attorney for CCCHC) Presentation on the Problems with Deed Restrictions

RI does not have any of the following infrastructures to support affordable housing:

- Policy
- Unit design
- Site design
- Community design
- Legislation
- Case Law

Example:

CLT purchases land and improvements for \$135K

Sells improvements for \$85K

Investment from CLT is \$50K

How do you keep it affordable in the future in order to secure the CLT's investment? Deed Restrictions?

Problems with deed restrictions:

1. Pre-emptive rights (ie: Right of First Refusal)
 2. Resale restrictions (ie: sell for what 80% of median income can afford)
- Historically, RI real estate law was drafted in favor of current landowner. Deed restrictions are terminated after a term of 20 years if the current landowner does not voluntarily restrict the land, regardless of restrictions prior landowner encumbered the land

Predatory Lending: Lender grants a loan with intent of foreclosing.

Under After homeowner buys they lose contact with CLT and may refinance using improvements *and land* as equity when in fact they can afford to refinance improvements only. If landowner can not make payments, house is foreclosed and OUT OF PROGRAM.

CCHC uses restrictions in lease instead of deed restriction to protect its investment:

Permission Clause: CCHC needs to review and approve financing to ensure the tenant doesn't commit to loan if they can't repay

Reverter Clause: RI statute recognizes reverter clauses in leases. CCHC leases have reverter clauses (If tenant defaults on loan, improvements revert to CCHC)

Duplex/Condos: problematic b/c tenants may need to share utility bills if town law or utility companies don't allow certain practices. Tenants would also have to share taxes. If only some units were classified as affordable there would be financial discrepancies when condo association

needed to share costs of improvements/repairs. If condo lease is challenged on 1 unit, all units would be lost and out of program. Increased stewardship would be needed.

SO: Developers are tending to build condos b/c they are profitable. How do we make them affordable?

PM: If outside developer builds condos the condo association ultimately owns the land. A deed restriction could be placed on the property to keep it in affordable housing program but there is no connection between the stewardship entity (CLT) and the homeowner and ultimately no mechanism to keep condos in the program.

Condo law would need to be reformed to recognize that an outside entity has rights over the property and improvements.

ER: Could RI create a statewide database of all these CLT properties so that lenders could monitor them?

PM: Lenders don't research deeds until the last step of the loan process:

1. buyer is qualified
2. FMV supported
3. closing attorney hired
4. deed researched

RF: MA is looking into community registry for conservation easements. It may serve as a model for RI. There is also a strong correlation between conservation easement stewardship problems and the affordable housing stewardship problems, thereby creating an opportunity for collaboration.

SB: Reschedule 10/14 meeting to 10/15 for Gus Seelig's presentation. There may be an additional meeting on 10/26. ICE may do a presentation in November.

SW: Motion to adjourn

RF: Second